IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

CRP.No. 562 of 2007

OP(ELE.) 107/2004 of ADDL. DISTRICT COURT, THODUPUZHA

REVN. PETITIONER: RESPONDENT:

KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER:

SRI.JOSEPH JOHN, THACHAPARAMBATHU,
ERATTAYAR KARA, KALKOONTHAL VILLAGE,
UDUMBANCHOLA TALUK.

BY ADV. SRI.S.K.MURALEEDHARA KAIMAL

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.562 OF 2007

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Dated this the 23rd day of October 2007

ORDER

This revision petition is preferred against the order of the Addl.District Judge, Thodupuzha in O.P.(Elec.) 107/2004 whereby the learned Addl.District Judge has awarded an additional compensation of Rs.23,802/- with 7.5% interest. A perusal of paragraph 8 of the award would reveal that she had relied on the decision of this court reported in ***Kumba Amma v. K.S.E.B.(2000(1) KLT 542)***. Learned standing counsel for the petitioner submits that matters had been remanded back to the High Court for fresh consideration in the light of the principles mentioned therein. In the decision reported in ***KSEB v. Livisha(2007(3) KLT 1(SC)*** the Apex Court had held that "the situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may

lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case".

2. So, a perusal of the said decision would reveal that each case has to be approached depending upon the facts and circumstances of that case. Therefore, I set aside the impugned award and remit the matter to the trial court for fresh consideration in the light of the principles enunciated in the decision reported in ***2007(3) KLT 1(SC)***. Parties are directed to appear before the court below on 30.11.2007.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-